APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,174	05/10/2001	Johan Cornelis Talstra	NL000262	5915

24737 7590 05/31/2006		

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER
POLTORAK, PIOTR

ART UNIT	PAPER NUMBER
2134	

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>08 May 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

     NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.

13. ☐ Other: _____.

Continuation of 11. Other: Applicant arguments have been carefully considered but found non persuasive. The examiner addresses main issues hoping to clarify applicant's concerns.

On pg. 2-3 applicant traverses the rejection of claim 21. Applicant suggests that "an applicant is entitled to be his or her own lexicographer and may rebut the presumption that claim terms are to be given their ordinary and customary meaning by clearly setting forth a definition of the term that is different from its ordinary and customary meaning(s)". The examiner points out that the rejection was not based on definitions used by applicant but rather a lack of understanding of the recited claim limitations. For example, the claim language clearly defines GF(s) as referring to Galois Field but pg. 5 lines 6-21 of the specification (also cited by applicant as clarifying the claim language) specifies that "the output of the LFSR is then a random sequence of elements I(i) of GF(s):0,1,2, ..., s-1". The claim language contradicts the specification: one of ordinary skill in the art would recognize that in Galois Field "s" cannot be any number but rather it must be a prime number.

On pg. 3 applicant argues that it is clear while reading the limitation: "the second signal is embedded in the first signal by selecting a key for at least partly encrypting the information from one of at least two groups of key" in claim 22 that "the selected key is used for at least partly encrypting information".
The examiner points out that the claim is not clear.

First, the claim language as written does not clearly define to which part "one of at least two groups of keys" refers. The language as written could be interpreted as though the key is selected from one of at least two groups of keys or as though the information from one of at least two groups of keys is encrypted. Even though applicant insists that the claim language is clear the examiner points out that in order to address the claim limitation in the previous Office Actions the examiner only attempted to guess the intended meaning of the claim.

Secondly, considering applicant's latest clarifications in the remarks dated 5/08/06, the examiner suspects that the desired meaning of the limitation is: "wherein the second signal is embedded in the first signal by encrypting information using a selected key, wherein the key is chosen from one of at last two groups of keys". However, this is not the same as "wherein the second signal is embedded in the first signal by selecting a key for at least partly encrypting the information from one of at least two groups of keys".
The claim language should be written in such a way that no ambiguity is present. Also, any amendments should be clearly supported by the specification.

The main argument raised by applicant seems to be that "there is no disclosure or suggestion within Bloom for any action to be taken if the wobble is not detected". Applicant requests the examiner to identify where in Bloom "any action that is taken or prevented from being taken upon the detection of the absence of a wobble groove".

The examiner points out that claims presented by applicant do not comprise the desired limitation. The wobble groove that further defines a physical mark of claim 1 is present in claim 3. Claim 1 by itself or in combination with claim 3 does not require any action to be taken or prevented from being taken upon the detection of the absence of wobble groove but rather calls for means in an apparatus "for refusing play back of the information read from the information carrier if the second signal but no physical mark has been detected". Since this desired limitation is not in any of the claims, it does not have to be met by Bloom's disclosure.

Bloom teaches digital data stored on DVD. This digital data reads on the first signal. The digital data includes a ticket T and additional watermark payload (pg. 1274, "Tickets"). The watermark including its payload reads on the second signal. Bloom also discloses that the ticket is implemented by means of a wobble (pg. 1275, lines 17-18). Thus, the ticket reads on a physical mark that is a wobble. Bloom also teaches that the ticket is a cryptographic counter, which is implemented as a multibit random number (pg. 1274, "Tickets").
As a result Bloom teaches a second signal logically embedded in the first signal and a physical mark that stores at least part of the information on the information carrier. Bloom teaches that during reading the disk, the information is compared: the watermark payload and wobble bits (the wobble bits that are transformed to be precise) and only if these two match is playback allowed (pg. 1275, lines 2937). In other words if there is no wobble that stores multibit information there is no match and the playback is not allowed.

Thus Bloom clearly discloses the means for reading the information from the information carrier, reading the second signal and detecting (and not detecting) a physical mark. The disclosure of preventing playback of the information while comparing the present second signal with the present physical mark (that is a wobble) clearly meets the limitation of "means for refusing play back of the information read from the information carrier if the second signal but no physical mark has been detected".

The examiner points out that although the art of record does not disclose the step of "refusing play back of the information read from the information carrier if the second signal but no wobble has been detected", none of the claims recite this limitation. Other independent claims stop short on refusing play back of the information if no physical mark has been detected. The examiner points out that the physical mark as well as the second signal and the first signal can be interpreted in Bloom's invention in various ways and that the watermark disclosed by Bloom can be treated as a physical mark since watermark data must physically be present on the information carrier (DVD) in order to be read.

In regard to claims 4-7, 10-11 and 21-22 the examiner refers applicant to arguments above and to the previous Office Action..